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Or

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,606	01/27/2004	Kiyohisa Ohta	259052004300	3400
25226	7590	01/28/2005	EXAMINER	
MORRISON & FOERSTER LLP 755 PAGE MILL RD PALO ALTO, CA 94304-1018				MUNSON, GENE M
ART UNIT		PAPER NUMBER		
2811				

DATE MAILED: 01/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No. <b>10/766,606</b>	Applicant(s) <b>K. OHTA ET AL</b>
Examiner <b>G. MUNSON</b>	Group Art Unit <b>2811</b>

**—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- Responsive to communication(s) filed on \_\_\_\_\_
- This action is **FINAL**.
- Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

### Disposition of Claims

- Claim(s) 1 - 11 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- Claim(s) 1, 3 - 5 is/are allowed.
- Claim(s) 2, 6 - 11 is/are rejected.
- Claim(s) \_\_\_\_\_ is/are objected to.
- Claim(s) \_\_\_\_\_ are subject to restriction or election requirement

### Application Papers

- The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.
- The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner
- The specification is objected to by the Examiner.
- The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119 (a)-(d)

- Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- All  Some\*  None of the:
  - Certified copies of the priority documents have been received.
  - Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - Copies of the certified copies of the priority documents have been received  
in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

### Attachment(s)

- Information Disclosure Statement(s), PTO-1449, Paper No(s). 1/27/03  Interview Summary, PTO-413
- Notice of Reference(s) Cited, PTO-892  Notice of Informal Patent Application, PTO-152
- Notice of Draftsperson's Patent Drawing Review, PTO-948  Other \_\_\_\_\_

## Office Action Summary

On page 8, line 14, "y and m" appears misprinted.

Claim 2 is rejected under 35 U.S.C. 112, first paragraph. The claim does not agree with Figure 1D, where the active layer 12 is on layer 11, rather than on GaAs substrate 10.

Claims 6-11 are rejected under 35 U.S.C. 112, second paragraph. Claim 6 is inconsistent with claim 1, where the "clad" layer is "formed on the active layer".

Murakami et al is cited of interest in showing use of a GaAlInP active layer in a light emitting element.

Claims 1 and 3-5 are allowed over the art of record.

Munson/ds  
(571) 272-1659

01/24/05



GENE M. MUNSON  
EXAMINER  
GROUP ART UNIT 2811